

ORIGINAL

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RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA., S.J.

Handwritten signature and initials.

ADR

CHRL

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA (SAN JOSE)

KRAIG BELISLE, an individual; DENISE  
BELISLE, an individual; and all those similarly  
situated.

Plaintiffs,

vs.

CERTEGY PAYMENT RECOVERY  
SERVICES, INC., a corporation; CERTEGY  
CHECK SERVICES, INC., a corporation, and  
DOES 1 through 10, Inclusive,

Defendant.

CASE NO.: **C08 01175**  
COMPLAINT FOR MONEY AND  
DECLARATORY AND  
INJUNCTIVE RELIEF

HRL

JURY TRIAL DEMANDED

Plaintiffs Kraig Belisle [Kraig] and Denise Belisle [Denise] on behalf of themselves and all those  
similarly situated complain of defendants as follows:

**I. INTRODUCTION**

1. This is an action for damages brought by an individual consumer for Defendant's  
violations of the Fair Debt Collection practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter  
"FDCPA". This is also an action for class relief by way of declaratory and injunctive relief under  
FDCPA. FDCPA prohibits debt collectors from engaging in abusive, deceptive, and unfair  
practices.

**II. JURISDICTION AND VENUE**

2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), 28 U.S.C. § 1337.  
Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2002. Class relief is available

COMPLAINT

1 pursuant to FRCP Rule 23. Venue in this District is proper in that the defendants transact  
2 business here and the conduct complained of occurred, in part, here.

### 3 **III. PARTIES**

4 3. Kraig is a natural person residing in San Jose, California, County of Santa Clara.

5 4. Denise is a natural person residing in San Jose, California, County of Santa Clara.

6 5. The class plaintiffs reside in the California county Santa Clara. The class includes  
7 all natural persons resident in the Santa Clara County who, with respect to consumer debt<sup>1</sup>, have  
8 received from Defendants one or more of the deceptive communications outlined in paragraphs  
9 12 a. through 12 b. within the last year, measured from the date of the filing of this action.

10 Plaintiffs are informed and believe that the class members aggregate more than 1000  
11 persons.

12 6. Defendants, Certegy Payment Recovery Services, Inc.[Recovery] and Certegy  
13 Check Services, Inc.[Certegy] , are Florida corporations engaged in the business of collecting  
14 debts throughout the United States with their principal places of business co-located at 11601  
15 Roosevelt Blvd., St. Petersburg, FL 33716. The principal business of Recovery and Certegy is  
16 the collection of debts using the mails and telephone and defendant regularly attempts to collect  
17 debts alleged to be due another.

18 7. Defendants Recovery, Certegy and Does 1 through 10 are "debt collectors" as  
19 defined by the FDCPA, 15 U.S.C. § 1692a(6).

### 20 **IV. FACTUAL ALLEGATIONS**

21 8. On or about November 1, 2007, a person or persons unknown [the Thief] caused  
22 *faux* copies of checks, purporting to be from the bank account of plaintiffs Kraig and Denise, to  
23 be printed. Thereafter, the Thief wrote a number of forged checks in payment for consumer  
24 items. Copies of (some) of the forged checks are attached collectively as Exhibit "A".

25 9 On or about December 4, 2007 Kraig and Denise's bank, Wells Fargo, contacted  
26 them and informed them that the Thief had passed a forged check at (among other places)  
27

---

28 <sup>1</sup>Within the meaning of 15 U.S.C.A. §1692a (5).

1 Wilsons the Leather Experts [Wilson] located in San Jose, California. In connection with such  
2 communication, Wells Fargo provided Kraig and Denise with a "to whom it may concern" letter  
3 to be shown to any merchant or other person to whom a forged check had been passed. In  
4 substance, the letter informs:

5 "This letter is to inform you that the above account of our customer[s],  
6 Kraig T. Belisle and Denise Belisle, was subject to fraudulent activity  
7 beginning 11/29/2007. At least one item made payable to you from this  
8 account was returned [to you] due to fraudulent activity. This should in no  
9 way reflect on [Kraig and Denise's] credit worthiness. We ask that you  
10 remove any derogatory credit reporting and reverse any charges that resulted  
11 as a consequence of this fraud".

12 A copy of the letter [the Wells Fargo Letter] is attached as Exhibit "B".

13 9. On or about December, 2007, Defendants mailed a letter to Kraig and Denise  
14 informing them that they were the subjects of a collection effort. Kraig and Denise informed  
15 Defendants that they were victims of a fraudulent/forged check scheme. Thereafter, Defendants  
16 sent to Kraig and Denise a form of affidavit and a demand that they execute the affidavit in order  
17 to establish the *bona fides* to their claim of being victims of fraud. A copy of the form of  
18 affidavit is attached as Exhibit "C". Among other things, the form of affidavit threatens that  
19 "[f]ailure to provide requested information and materials will result in the drivers license  
20 and account information *remaining negative and the inability to pay by check at any of our*  
21 *subscribing locations nationwide*". Kraig, Denise and all class members reasonably understood  
22 that representation to mean that (a) at or before the mailing of the offending communication  
23 (Exhibit "C") their credit had already been besmirched, and (b) their ability to negotiate checks at  
24 consumer retailers had already been compromised.

25 10. Instead of sending an affidavit, Kraig and Denise sent to Defendants a copy of the  
26 Wells Fargo Letter with an "FYI" cover letter. Thus the information exonerating Kraig and  
27 Denise was put in the hands of Defendants. Kraig and Denise were reluctant to provide all of the  
28 information sought by defendants in that the affidavit form asked for all of the information that

1 would allow someone to falsely assume Kraig and Denise's identity to their detriment<sup>2</sup>.

2 11. The reluctance of Kraig and Denise to make the demanded disclosures is well  
3 founded. Shortly before the events complained of herein, a senior data base administrator  
4 employed by Certegy misappropriated the confidential financial and personal information of  
5 approximately 8.5 million consumers and sold that information to marketing firms. On  
6 November 1, 2007 the second of two class actions relating to Defendants' confidentiality failures  
7 were filed against Certegy and related companies. Consumers entrust confidential information to  
8 Defendants at their great peril.

9 12. In connection with their communications to Kraig and Denise, the Defendants the  
10 defendants made the following deceptive and unfair statements:

11 (a) That defendant Certegy was and is the owner of the Wilson claim. The facts  
12 are that Certegy is, if anything, a mere assignee for collection or that the putative "ownership" by  
13 Certegy is on a full recourse basis vis a vis Wilsons. Certegy makes this claim in order to avoid  
14 the status of a debt collector within the meaning of the FDCPA. The Defendants have made  
15 substantially identical claims to all of the class members irrespective of which ;

16 (b) That (by implication and overtly) if Kraig and Denise fail to provide personal  
17 information superfluous to a determination of the fact of indebtedness that the FDCPA permits a  
18 collection agency to put "negative" information in its databases and that the information will  
19 "remain negative", that their ability to negotiate checks at consumer retailers has already been  
20 compromised, and that such negative information will be broadcast "nationwide" and "across  
21 North America". The Defendants have made substantially identical claims to all of the class  
22 members;

23 and, as to Kraig and Denise only,

24 (c) Despite all evidence to the contrary, that the Wilson debt was and is "due"  
25 from Kraig and Denise.

26  
27 <sup>2</sup>Name, Drivers License number, Social Security number, Mother's maiden name and an  
28 exemplar of Kraig and Denise's signatures. In other communications, Defendants demanded that  
Kraig and Denise provide photocopies of their drivers licenses.

1 **V. FIRST CLAIM FOR RELIEF**

2 13. Plaintiff's repeat and reallege and incorporates by reference paragraphs one  
3 through 12 above.

4 14. Defendants violated the FDCPA. Defendants' violations included, but are not  
5 limited to, the following:

6 (a) Falsely claiming that defendant Certegy was and is the owner of the Wilson  
7 claim. The facts are that Certegy is, if anything, a mere assignee for collection or that the  
8 putative "ownership" by Certegy is on a full recourse basis vis a vis Wilsons. Certegy makes this  
9 claim in order to avoid the status of a debt collector within the meaning of the FDCPA. The  
10 Defendants have made substantially identical claims to all of the class members irrespective of  
11 which consumer retailer is involved;

12 (b) Falsely claiming that if Kraig and Denise fail to provide personal information  
13 superfluous to a determination of the fact of indebtedness that the FDCPA permits a collection  
14 agency to put "negative" information in its databases and that the information will "*remain*  
15 negative", that their ability to negotiate checks at consumer retailers has already been  
16 compromised, and that such negative information will be broadcast "nationwide" and "across  
17 North America". The Defendants have made substantially identical claims to all of the class  
18 members irrespective of which consumer retailer is involved; and, as to Kraig and Denise only,

19 (c) Falsely claiming that, despite all evidence to the contrary, the Wilson debt was  
20 and is "due" from Kraig and Denise.

21 15. As a result of the above violations of the FDCPA, the Defendant is liable to  
22 Plaintiffs for declaratory judgment that defendants conduct violated the FDCPA, and Plaintiffs  
23 actual damages, statutory damages, and costs and attorneys fees.

24 16. As a result of the foregoing, Plaintiffs are entitled to injunctive relief enjoining  
25 Defendants from doing the things described in ¶¶ 14 (a) through (c).

26 WHEREFORE, Plaintiffs respectfully pray that judgment be entered against the  
27 Defendant for the following:

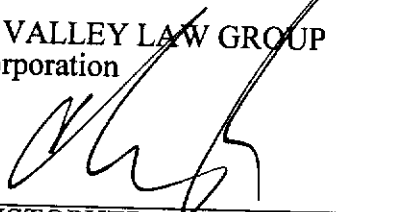
1. A Declaratory Judgment that defendant's conduct violated the FDCPA;
2. Actual damages;
3. Statutory damages pursuant to 15 U.S.C. § 1692k (a)(2)(B);
4. Statutory damages pursuant to 15 U.S.C. § 1692k (a)(2)(B)(i) and (ii);
5. Appropriate injunctive relief;
6. Costs and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k; and
7. Such other and further relief as may be just and proper.

Dated: February 27, 2008

Respectfully submitted,

SILICON VALLEY LAW GROUP  
A Law Corporation

By:

  
CHRISTOPHER ASHWORTH  
Attorneys for Plaintiffs,  
Kraig Belisle and Denise Belisle

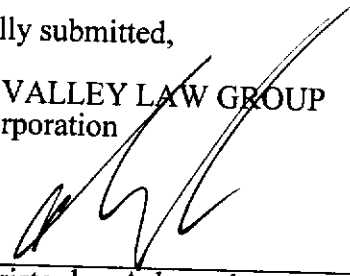
**DEMAND FOR JURY TRIAL**

Please take notice that Plaintiffs demand trial by jury in this action.

Dated: February 27, 2008

Respectfully submitted,

SILICON VALLEY LAW GROUP  
A Law Corporation

By:   
Christopher Ashworth  
Attorneys for Plaintiffs,  
Kraig Belisle and Denise Belisle



**Check Images**

Statement period: Dec 01-Dec 31, 2007  
 Account number: 028-8931744  
 Image page: 1 of 1

**WELLS  
FARGO**

KRAIG T. BELISLE  
DENISE BELISLE  
3242 SAN SABA DRIVE  
SAN JOSE, CA 95128

8735

Pay to the order of Direct TV 11/11/07  
One hundred eighty two \$ 182.91

For 005161889 Denise Belisle  
 41220002474 0288931744 08735 0000018291

REF#8875720314 CK# 8735 182.91

KRAIG T. BELISLE  
DENISE BELISLE  
3242 SAN SABA DRIVE  
SAN JOSE, CA 95128

8754

Pay to the order of Chase 11/25/07  
Three hundred \$ 300.00

For 4104140010314057 Denise Belisle  
 41220002474 0288931744 08754 0000030000

REF#8874512293 CK# 8754 300.00

KRAIG T. BELISLE  
DENISE BELISLE  
3242 SAN SABA DRIVE  
SAN JOSE, CA 95128

8758

Pay to the order of Vanish 12/1/07  
Sixty eight \$ 68.00

For 37381 Den Belisle  
 41220002474 0288931744 08758 0000006800

REF#0312681477 CK# 8758 68.00

KRAIG T. BELISLE  
DENISE BELISLE  
3242 SAN SABA DRIVE  
SAN JOSE, CA 95128

8766

Pay to the order of O Cleaners 11/27/07  
Nine \$ 9.55

For 00 Den Belisle  
 41220002474 0288931744 08766 0000000955

REF#8878886114 CK# 8766 9.55

KRAIG T. BELISLE  
DENISE BELISLE  
3242 SAN SABA DRIVE  
SAN JOSE, CA 95128

8767

Pay to the order of Shelly Opsal 11/28/07  
One hundred three \$ 103.82

For 00 Den Belisle  
 41220002474 0288931744 08767 0000010382

REF#0312013788 CK# 8767 103.82

KRAIG T. BELISLE  
DENISE BELISLE  
3242 SAN SABA DRIVE  
SAN JOSE, CA 95128

8770

Pay to the order of O Cleaners 12/1/07  
Eight \$ 8.55

For 00 Den Belisle  
 41220002474 0288931744 08770 0000000855

REF#8878886110 CK# 8770 8.55

KRAIG T. BELISLE  
DENISE BELISLE  
3242 SAN SABA DRIVE  
SAN JOSE, CA 95128

9751

Pay to the order of TARGET 11/28/07  
ONE HUNDRED TWENTY EIGHT AND 97/100 \$ 128.97

For 00 K B  
 41220002474 0288931744 09751 0000012897

REF#8867655573 CK# 9751 128.97

KRAIG T. BELISLE  
DENISE BELISLE  
3242 SAN SABA DRIVE  
SAN JOSE, CA 95128

9752

Pay to the order of TARGET 11/28/07  
FIVE HUNDRED FORTY ONE AND 24/100 \$ 541.24

For 00 K B  
 41220002474 0288931744 09752 0000054124

REF#8867655574 CK# 9752 541.24

KRAIG T. BELISLE  
DENISE BELISLE  
3242 SAN SABA DRIVE  
SAN JOSE, CA 95128

9754

Pay to the order of MACY'S 11/29/07  
ONE HUNDRED EIGHTEEN AND 52/100 \$ 118.52

For 00 Clatice K B  
 41220002474 0288931744 09754 0000011852

REF#8821286952 CK# 9754 118.52

KRAIG T. BELISLE  
DENISE BELISLE  
3242 SAN SABA DRIVE  
SAN JOSE, CA 95128

9755

Pay to the order of TARGET 11/29/07  
ONE HUNDRED SEVENTY SEVEN AND 48/100 \$ 177.48

For 00 Mark Kano E B  
 41220002474 0288931744 09755 0000017748

REF#8873360013 CK# 9755 177.48

**Exhibit A**



WELLS  
FARGO

## Check Images

KRAIG T. BELLE  
 DENISE BELLE  
 2042 SAN BABA DRIVE  
 SAN JOSE, CA 95128

8751  
 10-24/79 4000  
 888881744

11/14/07

Pay to the Order of CAROLYN CRISTANTINE \$ 150.00

One hundred fifty & 00/100 Dollars

Signature: Den Belle

1220002474 0288931744 08751

REF#6512134830 CK# 8751 150.00

KORANG T. BELIBÉ  
DENISE BELIBÉ  
3942 SAN BASA DRIVE 408-238-0681  
SAN JOSE, CA 95128

11/15/07

BUSINESS

Pay to the order of Clem Nguyen

\$ 50.00

Amount in Words Fifty Dollars

DATE 11/15/07

SIGNATURE Dan Belibé

For: 01220002470 0288433744 08752 700000050007

REF#8834762075 CK# 8752 50.00

KRAIG T. BELBLE  
 DENISE BELBLE  
 3262 SAN RAMA DRIVE  
 SAN JOSE, CA 95128

8753  
 11/20/07  
 10-277-9046  
 8888817-24

Pay to the Order of Alma Fritos \$ 80.00  
~~Eighty and 00/100~~  
 Date 11/20/07 ☒ ☐

MICR Line: ⑆ 1220002471 0288933674 08753 ⑆ 0000008000 ⑆

**REF#00762000**

This check produced by MCC Payments. Questions may be referred to 1-800-766-8777  
 KRAIG BELISE  
 3432 SAN GABRIEL DR  
 SAN JOSE, CA 95148  
 3438861740763432A  
 A1762877-1631-0588  
 Date: 11/14/2007  
 Check: 8771  
 Amount  
 \$200.00  
 Pay to the order of:  
 FNAME  
 TWO HUNDRED AND 00/100  
 WELLS FARGO BK NA  
 CULVER CITY, CA  
 4104140010314087  
 FNAME  
 By FNAME on account  
 exp. to FNAME 04/15/11  
 ⑆0000020000⑆  
 ⑆0000020000⑆

REF#8867292183 CR

Kevita Y. Williams  
 Pasadena Branch  
 7740 San Marino Avenue  
 San Jose, CA 95148  
 408-239-0521

C2260410  
 RFP: 03/09

8740  
 Amount Due  
 Cash/Debit

Date: 11/28/07

Pay to the order of: WILSONS LEATHER Amount: \$193.77

ONE HUNDRED NINETY THREE AND 77/100 Dollars

Write Payor Bank  
 Cash/Debit  
 www.williams.com  
 408-239-0521

JACKET K.R.

0622000296 02BA931746 09769

REF#4110439836 CK# 9749 193.77

[illegible]

REF#0826417643 CK# 9750 111.43

Frank J. Bickels  
 2545 Glen Avenue  
 West, Los Angeles, CA 90016  
 323-337-0621

8751  
 16-001-1234-001  
 000001706

Date 4/25/07  
 Amount \$128.97  
 ONE HUNDRED TWENTY EIGHT AND 97/100 Dollars

Write Pango Bank  
 California  
 www.vallejo.ca.us  
 800-225-0935

K B

01220002670 0282931764F 09751 /0000012897\*

REF#8867655573 CK# 9751 128.97

Kevin T. Bellido  
 2342 West 42nd Avenue  
 Los Angeles, CA 90048  
 408-237-0521

9752  
 05/24/2000  
 05/24/2000

DATE: 5/28/02  
 AMOUNT: \$541.24  
 DOLLARS

Write Pump Bank  
 California  
 www.pumpbank.com  
 800-325-6633

083 K 03

01220002674 0288933744 09752 000005423

REF#8867655574 CK# 9752 541.24



12/04/2007

Deposit Risk Operations  
Fraud Claims  
P.O. Box 7406  
MAC A0143-043  
San Francisco, CA 94120-7406

KRAIG T BELISLE  
DENISE BELISLE  
3342 SAN SABA DR  
SAN JOSE, CA 95148-2146

RE: Claim Number: 2007120300393  
Wells Fargo Account Number: 114-XXXXXX1744-DDA

To Whom It May Concern:

This letter is to advise that the above account of our customer, KRAIG T BELISLE & DENISE BELISLE, was subject to fraudulent activity beginning 11/29/2007. At least one item made payable to you from this account was returned unpaid due to fraudulent activity. This should in no way reflect on KRAIG T BELISLE & DENISE BELISLE's credit worthiness. We ask that you remove any derogatory credit reporting and reverse any charges that resulted as a consequence of this fraud.

Thank you for your understanding in this matter. If you have any questions, please contact us by calling (888) 231-0757 Monday through Friday between 6:00 a.m. and 6:00 p.m., or on Saturday between 7:00 a.m. and 4:00 p.m. (Pacific Standard Time).

Sincerely,

Check Fraud Claims Department  
Deposit Risk Operations

Ref# CFC-ML

Exhibit B

**Affidavit of Forgery**  
**CERTEGY CHECK SERVICES, INC.**

1. The following information is for: ☐ Lost/Stolen checks ☐ check/draft numbers \_\_\_\_\_ through \_\_\_\_\_  
☐ Counterfeit checks ☐ check/draft numbers \_\_\_\_\_ through \_\_\_\_\_  
☐ Forged name/ identity \_\_\_\_\_  
☐ Forged bank account number \_\_\_\_\_  
☐ Forged address \_\_\_\_\_

**2. FINANCIAL INSTITUTION:**

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Contact: \_\_\_\_\_  
 Phone No: \_\_\_\_\_  
 Routing, Transit No: \_\_\_\_\_

**3. POLICE REPORT ( ATTACH A COPY OF REPORT)**

Police Department \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Case Number: \_\_\_\_\_  
 Police Officer \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Phone Number: \_\_\_\_\_

**4. IDENTIFY ALL PERSONS ON ACCOUNT, INCLUDING JOINT ACCOUNT HOLDERS. ATTACH A PHOTOCOPY OF EACH ACCOUNT HOLDER'S DRIVERS LICENSE (Please use additional pages, in necessary)**

Name: \_\_\_\_\_  
 Drivers License No: \_\_\_\_\_  
 Issued by State of: \_\_\_\_\_  
 Social Security No: \_\_\_\_\_  
 Mother's Maiden Name: \_\_\_\_\_  
 Account Holder's  
 Signature: \_\_\_\_\_

Name: \_\_\_\_\_  
 Drivers License No: \_\_\_\_\_  
 Issued by State of: \_\_\_\_\_  
 Social Security No: \_\_\_\_\_  
 Mother's Maiden Name: \_\_\_\_\_  
 Account Holder's  
 Signature: \_\_\_\_\_

**5. If the account will remain open please provide a password.**

**Password** \_\_\_\_\_ **Password Hint** \_\_\_\_\_

**Additional Information** (including any additional notices you may have received from Certegy): \_\_\_\_\_

IF ACCOUNT REMAINS OPEN, YOU MUST PROVIDE A VOIDED CHECK AND DEPOSIT SLIP.

FAILURE TO PROVIDE REQUESTED INFORMATION AND MATERIALS WILL RESULT IN THE DRIVERS LICENSE AND ACCOUNT INFORMATION REMAINING NEGATIVE, AND THE INABILITY TO PAY BY CHECK AT ANY OF OUR SUBSCRIBING LOCATIONS NATIONWIDE.

I swear that the information contained in this document is true and accurate.

**6. CONSUMER SIGNATURE:** \_\_\_\_\_

Signed and sworn before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ who is personally known to me or has produced \_\_\_\_\_ as identification (provide identification number)

Commission Number / Commission Expires  
 (SEAL/STAMP)

Signature of Notary

Print Name of Notary

PLEASE RETURN THIS SIGNED AND COMPLETED AFFIDAVIT ALONG WITH A PHOTOCOPY OF YOUR DRIVERS LICENSE IN THE ENCLOSED ENVELOPE TO THE ADDRESS BELOW

**KRAIG BELISLE**  
**3342 SAN SABA DR**  
**SAN JOSE CA 95148-2146**

|||||  
 CERTEGY CHECK SERVICES  
 CUSTOMER CARE  
 PO BOX 30046  
 TAMPA FL 33630-3046

**Please make sure the address shows  
 through the envelope window**

**Exhibit** 